

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 13-mc-86 (SRN/TNL)

UNITED STATES OF AMERICA,

Petitioner,

v.

CRISANDRA J. THORNTON,

Respondent.

**MEMORANDUM IN
SUPPORT OF MOTION FOR
AN ORDER TO SHOW
CAUSE**

PROCEDURAL HISTORY

On July 24, 2013, Revenue Officer Jeffrey Wagner issued a summons requiring the appearance of the Respondent at the Internal Revenue Service offices in Bloomington, Minnesota on August 9. Respondent failed and refused to appear. (Declaration of Jeffrey Wagner).

Enforcement proceedings were commenced in this Court. An order to show cause issued requiring Respondent to show cause why this Court should not order the summons enforced. The matter was referred for hearing before United States Magistrate Judge Tony N. Leung (ECF 3¹).

U.S. Magistrate Judge Leung held a hearing on the Order to Show Cause on December 11, 2013. (ECF 11). After a subsequent hearing on Respondent's motion to dismiss on January 27, 2014, the United States Magistrate issued his Report and Recommendation that the summons be enforced. (ECF 16 and 17). On August 1, this

¹ References to the Court's docket are indicated by Electronic Case Filing (ECF) Docket numbers corresponding to the docket numbers assigned by PACER for this case.

Court, overruling the Respondent's objections to the Report and Recommendation, adopted the Report and Recommendation of the United States Magistrate Judge, and entered judgment ordering the enforcement of the summons. (ECF 19 and 21). Respondent's subsequent motions to reconsider, her request for adversarial hearing, and request for hearing on her motion to reconsider were denied on August 28, 2014. On September 5, 2014, Respondent moved to strike this Court's order of August 28, 2014, and requested an adversarial hearing on her motions denied on August 28, 2014. (ECF 26). These motions are presently pending.

On August 4, 2014 Jeffery Wagner sent a letter, both by first class and by certified U.S. Mail to Respondent, directing her appearance at the offices of the Internal Revenue Service on August 8, 2014. Respondent failed to appear. (Declaration of Jeffrey Wagner).

ARGUMENT

This Court clearly has the authority to enforce its own orders. District courts have inherent power to enforce compliance with orders through contempt proceedings. Shillitani v. United States, 384 U.S. 364, 370 (1966). Moreover, 26 U.S.C. § 7604 specifically gives this Court the authority to enforce its orders concerning summons enforcement by means of contempt proceedings.

For a party to be held in contempt, it must be shown that: (1) a valid order existed, (2) the party had knowledge of the order, and (3) the party disobeyed the order. Reliance Ins. Co. v. Mast Constr. Co., 159 F.3d 1311, 1315 (10th Cir. 1998). The moving party is required only to establish a prima facie case of contempt by demonstrating that certain

conduct was required by a previous court order and that the alleged contemnor failed to comply with that order. United States v. Hayes, 722 F.2d 723, 725 (11th Cir. 1984).

In this case, it is without question that a valid order existed. This Court entered such an order and judgment on August 1, 2014 and August 4, 2014, respectively. (ECF 19 and 21). It is also clear that Respondent knew about the order, as she moved to reconsider the Court's order; to vacate the order; to strike the order; and for an additional hearing on the order and judgment. (ECF 22, 23, 24 and 26). It is equally clear that Respondent has failed to comply with the order. (Declaration of Jeffrey Wagner).

Therefore, Petitioner United States, having demonstrated a prima facie case of contempt, respectfully requests that this Court issue its Order to Show Cause why the Respondent Crisandra J. Thornton should not be held in contempt for her willful failure to abide by this Court's order above-described.

Dated: September 23, 2014

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